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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,690	02/27/2004	Hakan Nilsson	STROM10.001AUS	9341
20995	7590	09/15/2004	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			COTTINGHAM, JOHN R	
			ART UNIT	PAPER NUMBER
			3679	

DATE MAILED: 09/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

10/789,690

Applicant(s)

NILSSON, HAKAN

Examiner

John R. Cottingham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Specification***

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4 and 8-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Bergendahl U.S. Patent Application Publication 2003/0222254. Bergendahl shows all of the claimed subject matter of a wire rope safety barrier in Figures 1-11.

Regarding claim 1, a wire rope safety barrier for positioning along roads or between carriage ways for traffic in opposite directions, and incorporating a plurality of spaced apart posts 30, which are substantially vertically anchored in the road side or in a strip positioned between the carriage ways for traffic in opposite directions, which posts in a sliding manner supports a number of wire ropes 160a-c, which wire ropes 160a-c are spaced apart in vertical direction and are firmly anchored under pretension in end anchors fixedly positioned at opposite ends of the wire ropes outside the positions for the posts, the wire ropes being positioned in receiving means 41 arranged in the posts 30, detachable cover means 50 being positioned on top of said receiving means, the said posts 30 and the said cover means 50 having cooperating hooking means (vertical sidewalls of the cover 50), preventing the cover means 50 from being thrown off the posts following the impact, when a vehicle hits the wire rope safety barrier.

Regarding claim 2, wherein each post 30 has a top end and is provided with a substantially vertical slot opening 41 at the top end, said slots forming the receiving means for the wire ropes.

Regarding claim 3, wherein the wire ropes 160a-c are positioned in the said wire rope receiving means 41, with spacing members 46 positioned between two adjacent wire ropes.

Regarding claim 4, wherein the cover means 50 comprises a top cap positioned on top of the post, in a position closing off the upper opening of the slot.

Regarding claim 8, wherein the wire rope comprises a steel wire rope.

Regarding claim 9, a wire rope safety barrier for positioning along roads or between carriage ways for traffic in opposite directions, and incorporating a plurality of spaced apart posts 30, which are substantially vertically anchored in the road side or in a strip positioned

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between the carriage ways for traffic in opposite directions, which posts in a sliding manner supports a wire ropes 160a-c, which are spaced apart in vertical direction and are firmly anchored under pretension in end anchors fixedly positioned at opposite ends of the wire ropes outside the positions for the posts, the wire ropes 160a-c being positioned in a receiving component arranged in the posts.

Regarding claim 10, wherein the wire rope safety barrier comprises a steel wire rope safety barrier.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bergendahl as applied to claim 1 above, and further in view of Ernst et al. U.S. Patent Application 2003/0122115. Bergendahl does not show the cover means' hooking means comprising an resilient inward projection adapted to enter in the opening at the top of the post. Ernst et al. shows, in the figures, a plastic cap 11 with a hooking means 12 to fit into openings of the post, to prevent the rust free cap from being easily removed. It would have been will within the level of one of ordinary skill in the art at the time the invention was made to make the cover, of Bergendahl, out of plastic and having resilient projections, as taught by Ernst et al. to keep the cover from being easily removed.


***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Johansson et al. U.S. Patent Application 200/0041140 shows a similar invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John R. Cottingham whose telephone number is (703) 306-3439. The examiner can normally be reached on Monday - Thursday, alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703) 308-2686. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
John R. Cottingham  
Primary Examiner  
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